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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MAYO, TARA L

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3671

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/711,754	Applicant(s) STEWART ET AL.	
	Examiner Tara L. Mayo	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/27/06 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 15 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claim 15 includes an actuating mechanism coupled to the back section and selectively operable to move the back section between the first and second orientations *and* to adjust a height of the seat and back sections relative to the base.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 15 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1 through 4, 6 through 11, 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Siepmann et al. (U.S. Patent No. 6,568,008 B2) in view of Tate (U.S. Patent No. 6,361, 117 B1).

Siepmann et al. '008, as best seen in Figures 1 through 4, 6 and 8, show an articulating medical table, comprising:

with regard to claims 1 and 14,

a stationary base;

a seat section (S) mounted atop said base;

a back section (30) atop said base and cooperating with said seat section to support a patient thereon, said back section moveable between a first, inclined orientation relative to said seat section, for supporting a patient in a seated position, and a second orientation substantially parallel to said seat section, to support a patient in a generally supine position; and

an actuating mechanism (42) coupled to said back section and selectively operable to move said back section between said first and second orientations; and

with regard to claim 6,

further comprising a procedure tray (10) slidably coupled to said base, said procedure tray moveable from a first position disposed substantially beneath said seat section and a second position wherein said procedure tray extends outwardly from said seat section.

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Siepmann et al. '008 fail to teach:

with regard to claims 1 and 14,

the seat section comprising a seat frame defining a peripheral border and a central open area, and a layer of web material extending across the open area and secured to the seat frame;

with regard to claim 2,

the web material being formed of elastomer;

with regard to claim 3,

the web material being stretched approximately 10% to approximately 20% of its unstretched length when it is secured to the seat frame;

with regard to claim 4,

foot operated controls for activating the actuating mechanism;

with regard to claim 7,

cushion material disposed over the web material;

with regard to claim 8,

the cushion material including a layer of foam material and an upholstery cover layer;

with regard to claim 9,

the foam layer having a thickness of up to approximately 1.0 inch;

with regard to claim 10,

the foam layer having a thickness of up to approximately 0.56 inch;

with regard to claim 11,

the foam layer having a thickness of less than approximately 0.5 inch; and

with regard to claim 13,

the open area of the seat frame having a width, transverse to a longitudinal direction of the table, of at least approximately 12.0 inches.

Tate '117, as seen in Figures 1 and 3 through 6, shows a bucket seat (10) including a seat section (18) comprising a seat frame (26) defining a peripheral border and a central open area, and a layer of web material (58) extending across the open area and secured to the seat frame; wherein the web material is formed of elastomer (col. 3, lines 19 through 21); and further comprising a cushion material disposed over the web material (22) and an upholstery cover layer (col. 2, lines 24 through 28). Tate '117 expressly teaches use of the seat for providing a compact, low profile seat capable of providing comfortable support (col. 1, lines 29 through 35).

With regard to claims 1, 2, 7, 8 and 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device shown by Siepmann et al. '008 such that it would include a seat section as taught by Tate '117. The motivation would have been to provide the medical table with a seat section comfortable to a user and having a low profile.

With regard to claim 3, Tate '117 is silent with respect to the degree of stretch of the web material. It would have been obvious to one having ordinary skill in the art at the time the invention was made stretch the web material of the device shown by the combination of Siepmann et al. '008 and Tate '117 approximately 10% to approximately 20% of its unstretched length. The motivation would have been to pretension the web material to a desired degree. Furthermore, it has been held that where the general conditions of a claim are disclosed in the

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prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With regard to claim 4, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device taught by the combination of Siepmann et al. '008 and Tate '117 such that it would include foot controls for activating the actuator since the Examiner takes Official Notice of the use of foot pedals for activating actuators. The motivation would have been for ease of control while raising and/or lowering the back section. Specifically, automated activation would preclude a physician from manually lifting or lowering a patient into a desired position while positioned on the examination table.

With regard to claims 9 through 11 and 13, Applicant has not shown that the particular dimensions recited in the claims are critical or provide unexpected results. As such, the limitations are met by the device shown by the combination of Siepmann et al. '008 and Tate '117 which is capable of being manufactured to the claimed dimensions. *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). The motivation for making the cushion a desired thickness or the seat section a desired width would have been to provide for the comfort of a patient.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siepmann et al. (U.S. Patent No. 6,568,008 B2) in view of Tate (U.S. Patent No. 6,361,117 B1) as applied to claim 1 above, and further in view of Leeper et al. (U.S. Patent No. 4,516,805).

The combination of Siepmann et al. '008 and Tate '117 fails to teach:

a footboard slidably coupled to the base, the foot board being moveable from a first position disposed substantially beneath the seat section and a second position wherein the foot board extends outwardly from the seat section.

Leeper et al. '805, as seen in Figure 3, shows an examination chair comprising a footboard (36) slidably coupled to a base (22) of the chair and moveable from a first position disposed substantially beneath the seat section (32) of the chair to a second position wherein the footboard extends outwardly from the seat section (col. 6, lines 60 through 66).

With regard to claim 5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device taught by the combination of Siepmann et al. '008 and Tate '117 such that it would further include a footboard as taught by Leeper et al. '805. The motivation would have been to provide support for a patient's feet.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siepmann et al. (U.S. Patent No. 6,568,008 B2) in view of Tate (U.S. Patent No. 6,361,117 B1) as applied to claim 1 above, and further in view of Welling et al. (U.S. Patent No. 6,880,189 B2).

The combination of Siepmann et al. '008 and Tate '117 fails to teach:

a heater associated with at least one of the seat section and the back section.

Welling et al. '189, as seen in Figures 41 and 42, show a patient support comprising a heating layer (340) made of a resistive heating material. Moreover, Welling et al. '189 expressly

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teach the selective association of the heating layer with different areas of the patient support (col. 28, lines 5 through 16).

With regard to claim 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device taught by the combination of Siepmann et al. '008 and Tate '117 such that it would further include a heater as disclosed by Welling et al. '189. The motivation would have been to provide heating means of warming a patient.

Response to Arguments

7. Applicant's arguments filed 03 October 2006 have been fully considered but they are not persuasive.

In response to Applicant's argument that the Examiner's conclusion of obviousness is based on improper hindsight reasoning, the Examiner contends there is no requirement that an "express, written motivation to combine must appear in prior art references before a finding of obviousness." See *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 1276, 69 USPQ2d 1686, 1690 (Fed. Cir. 2004). For example, motivation to combine prior art references may exist in the nature of the problem to be solved (*Ruiz* at 1276, 69 USPQ2d at 1690) or the knowledge of one of ordinary skill in the art (*National Steel Car v. Canadian Pacific Railway Ltd.*, 357 F.3d 1319, 1338, 69 USPQ2d 1641, 1656 (Fed. Cir. 2004)). In this instance, Tate '117 clearly teaches the desired use of a seat frame (26) defining a peripheral border and a central open area, and a layer of web material (58) extending across the open area and secured to the seat frame for the purpose of

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imparting comfortable support to a user (col. 1, lines 29 through 35). In this instance, the combination of Siepmann et al. '008 and Tate '117 does not render the prior art device of Siepmann et al. '008 unsatisfactory for its intended purpose or change its principle of operation. Additionally, in response to Applicant's arguments that the table shown by Siepmann et al. '008 fails to appreciate the need for a low profiled seat on a medical examination table, the Examiner contends the medical table of the combination of Siepmann et al. '008 and Tate '117 could be used in a mobile health unit thereby requiring a low-profile structure.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


TARA LMAYO
PRIMARY EXAMINER
Art Unit 3671

tlm
26 May 2007